

Message

From: Matthew Culpo [MCULPO@helenamt.gov]
Sent: 8/25/2020 6:39:33 PM
To: Llamozas, Emilio [Llamozas.Emilio@epa.gov]; Phil Hauck [PHAUCK@helenamt.gov]; Mark Fitzwater [mfitzwater@helenamt.gov]; Ryan Leland [RLELAND@helenamt.gov]
CC: Thomas Jodoin [TJODOIN@helenamt.gov]; Garcia, Al [garcia.al@epa.gov]; Hanson, Robyn [Hanson.Robyn@epa.gov]
Subject: RE: EPA's comments on the DIP Industrial User Permit
Attachments: Industrial User Inspection Report Form.doc

Emilio and All,

Please see a complete response to Emilio's August 18, 2020 email below, and updates to the schedule as I provided in the August 10, 2020 email, also below.

Matt Culpo, P.E.
Civil Engineer
City of Helena
316 North Park Avenue
City-County Building, Room 413
Ph: 406-447-8073
Cell: 406-422-6147
mculpo@helenamt.gov

From: Llamozas, Emilio <Llamozas.Emilio@epa.gov>
Sent: Tuesday, August 18, 2020 9:59 AM
To: Matthew Culpo <MCULPO@helenamt.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>
Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>
Subject: RE: EPA's comments on the DIP Industrial User Permit

Hi Matt,

Thanks for the update you sent last week.

We agree with your status assessment for items 1 and 4-7, below. I will provide EPA's responses to these City submissions, in separate emails.

Please let us know if you have since heard back from a representative from Fort Harrison regarding the submitted IGA. We shared our latest email correspondence with EPA on 8/19/20: We are waiting for Fort Harrison Military Base Attorney to review and respond to the IGA.

As for item 3, could you please send me the final signed DIP industrial user permit? This was sent to EPA on 8/19/20.

As for item 8, we plan to provide additional information about the type of procedure we are requesting the City to develop when we propose a draft Administrative Order on Consent (AOC). Item 8 tracks back to the 2017 Audit Findings as referenced in the LOV as Audit Findings Nos: 12, 13, 14 and 17. We have addressed these items as summarized below and continue to strive to improve our related processes.

Corrective Action Item 12: Re-evaluate the sampling frequencies from DIP and modify the Industrial User (IU) Permit. We have created a Sampling and Analysis Plan and executed a new IU Permit for DIP which includes time-proportional sampling.

Corrective Action Item 13: Perform independent sampling of all pollutants of concern in the DIP permit. We had started this sampling of all pollutants in 2017 and have continued to do so in our 2018 and 2019 inspections, and plan to do so in our 2020 inspection.

Corrective Action Item 14: Ensure MRL is performing compliance sampling during discharge. I have contacted MRL and informed them to sample during discharge in accordance with their IU Permit, and asked them to continue to sample prior to discharge.

Corrective Action Item 17: Ensure the facility inspection reports are developed using specific and current information regarding the facilities processes and waste treatment methods. Inspections of the facilities are thorough and current. If facility operations do not change then inspections will be similar. In the interest of on-going pre-treatment program improvement, I have reviewed and revised the Inspection Report Form (Attached) and cleared all the cells to provide assurance that the 2020 inspections will continue to provide specific and current information.

As for item 9, we would appreciate a current explanation of the individuals dedicated to implementing the City's program, including how responsibilities are divided and the percentage of each FTE's time that is allocated to pretreatment program duties. Please do provide us information on your current structure and future plans for dedicating staff to your program.

The City's current pre-treatment program consists of activity by several City employees in various Divisions of the Public Works Department.

Matt Culpo (Civil Engineer) Program Manager: Project coordination and oversight, delegation of tasks, consultant management, preparation and review of documents, coordination with Pre-treatment coordinator.

Mark Fitzwater (WWTP Supervisor) Pre-treatment Coordinator: Assist Program Manager with all components of pre-treatment program, provides technical expertise related to Water Treatment Plant Operation, reviews documents and correspondence, and provides program funding, resources and personnel.

Carrie Hahn (Administrative Assistant): Provides administrative assistance to the Program Manager and Pre-Treatment Coordinator, reviews document, prepares mailers, assists with filing and project tracking.

Travis Ball (Engineering Technician): Provides assistance to the Program Manager as designated, reviews CFRs, prepares and reviews program documents, identifies industrial users, performs business inspections.

Adam Jorgenson (Engineering Technician): Reviews building permit applications for industrial processes and potential industrial users.

Shane Bogard (Utility Maintenance Supervisor): Reviews building permit applications for industrial processes and potential industrial users, video inspects sanitary sewer lines for operation and maintenance which includes illicit discharges and potential industrial users.

CDM Smith (Consultant): Prepares Local Limits, assist with project permits and documents, and provides technical expertise.

It is difficult to readily say with significant accuracy what amount of time is spent by each person, but in order of significance, I estimate as follows: Matt Culpo, Mark Fitzwater, CDM Smith, Carrie Hahn, Travis Ball, Shane Bogard, Adam Jorgenson. Further, we spend approximately \$15,000 to \$20,000 on consulting and roughly 800-1200 City staff hours per year on the Pre-Treatment Program.

Thanks,

Emilio Llamozas

(303) 312-6407 phone

To report an environmental violation, please visit EPA's website at

<http://www.epa.gov/compliance/complaints/index.html>

From: Matthew Culpo <MCULPO@helenamt.gov>

Sent: Monday, August 10, 2020 9:26 AM

To: Llamozas, Emilio <Llamozas.Emilio@epa.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>

Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>

Subject: RE: EPA's comments on the DIP Industrial User Permit

Emilio,

Attached are the Final versions of the DIP Permit and Monitoring Report Form. It is much cleaner to only reference the Ordinance in the DIP Permit so that is how we chose to finalize it. We will be issuing the permit this week.

Additionally, I am providing an update regarding the list of deliverables from the July 24, 2020 email from R. Hanson (see below). Following is the status of each item:

1. Ordinance: Submittal complete, waiting for EPA.
2. IGA: Submitted IGA to Fort Harrison Army National Guard (LTC Adel Johnson). Via phone conversation with LTC Adel Johnson, Fort Harrison Military Base's Attorney is reviewing the IGA.
3. DIP permit: Submittal complete, Permit issued to DIP.
4. Industrial User Characterization: Final Draft addressing EPA comments was submitted to EPA on 8/24/20.
5. Industrial User Inventory: Submittal complete, delivered to EPA on 8/24/20.
6. Sampling and Analysis Plan: Revising per additional EPA comments sent to the City on 8/18/20.
7. MRL Late Report Enforcement: Submittal complete.
8. SIU Report Review Procedures: Submittal complete, see above.
9. Qualified Personnel: Although we are evaluating future options, we believe our current structure and staff are qualified to implement the Pre-Treatment program. Does EPA need further information regarding our current staffing to demonstrate their qualifications? Submittal complete, see above.

Please let me know if you have any comments or concerns regarding the status summary, and provide the requested clarifications for Items 8 and 9 so we can further our response.

Regards,

Matt Culpo, P.E.
Civil Engineer
City of Helena
316 North Park Avenue
City-County Building, Room 413
Ph: 406-447-8073
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mculpo@helenamt.gov

From: Llamozas, Emilio <Llamozas.Emilio@epa.gov>

Sent: Monday, August 10, 2020 6:52 AM

To: Matthew Culpo <MCULPO@helenamt.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>

Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>

Subject: RE: EPA's comments on the DIP Industrial User Permit

Matt,

Thanks for your email with updates on the DIP industrial user permit. Thanks for taking out the email addresses under Part 3.f of the DIP IU permit and for adding the TTO certification to the Monitoring Reporting Form.

Currently, the requirements in Section A, Part 11 General Prohibitive Standards, of the DIP IU permit do not align with the City ordinance 6-4-5.

- Two examples where the permit does not align are found below. Please note that the list below has two examples and that there are other requirements in Section A Part 11 General Prohibitive Standards in the DIP IU permit that do not align with City ordinance 6-4-5.
 - Pass Through and Interference general prohibitions not incorporated: No person may contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which cause pass- through or interference.
 - Temperature specific prohibition not equivalent because it does not include interference; Wastewater having a temperature that will cause the temperature of the wastewater plant influent to exceed forty degrees Celsius (40°C) (104°F) or will cause interference; ~~Having a temperature higher than 104 degrees F (40 degrees C);~~

As background information, there are no requirements to include the general or specific prohibitions in an industrial user permit conditions. However, if the general or specific prohibitions are added to the industrial user permit it needs to align with the City ordinance.

Therefore the City has some options:

- The City should implement the general and specific prohibitions verbatim from the municipal ordinance 6-4-5, or;
- The City may choose to not include these as permit conditions (the permit already reference compliance with the ordinance).

Please let us know which option the City will pursue for the DIP IU permit. Assuming the City makes the changes recommended by selecting one of these options, we will not have further comments on the DIP permit and the City may choose to issue it.

Also, the page numbers need to be corrected in the Monitoring Report Form.

Thanks,

Emilio Llamozas

(303) 312-6407 phone

To report an environmental violation, please visit EPA's website at

<http://www.epa.gov/compliance/complaints/index.html>

From: Matthew Culpo <MCULPO@helenamt.gov>

Sent: Thursday, August 6, 2020 9:54 AM

To: Llamozas, Emilio <Llamozas.Emilio@epa.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>

Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>

Subject: RE: EPA's comments on the DIP Industrial User Permit

Emilio,

Attached are the revised DIP Permit and Monitoring Form.

PERMIT

1 – I removed the submittal by email.

2 – You reference Section B, Part 11, but you mean Section A, Part 11. I cross-checked this section with City Code 6-4-5 and found that the requirements are equivalent but not worded the same. I would be happy reword the permit to

match the code if that is preferred or make revisions if you see something that needs to be addressed. I also corrected the typo you mention.

Monitoring report form

I added the TTO certification as you requested.

Do you have any more comments or concerns with this permit before we issue it on the 15th?

Thank you,

Matt Culpo, P.E.
Civil Engineer
City of Helena
316 North Park Avenue
City-County Building, Room 413
Ph: 406-447-8073
Cell: 406-422-6147
mculpo@helenamt.gov

From: Llamozas, Emilio <Llamozas.Emilio@epa.gov>

Sent: Wednesday, August 5, 2020 12:37 PM

To: Matthew Culpo <MCULPO@helenamt.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>

Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>

Subject: RE: EPA's comments on the DIP Industrial User Permit

Hi Matt,

Thanks for sending the "DIP IU permit" and "monitoring report form" attachment to the permit. I also saw your second email that had the "monitoring report form" with the corrected effluent limits to match the changes made to the "DIP IU permit." I quickly scanned both documents and had the following comments:

Permit

1- Pretreatment programs can accept electronic reports if the program is Cross-Media Electronic Reporting Regulation (CROMERR) compliant, but the City of Helena has not received such approval.

40 C.F.R. §403.8 (g) states, "A POTW that chooses to receive electronic documents must satisfy the requirements of 40 CFR part 3 - (Electronic reporting)."

40 C.F.R. §3 is the CROMERR regulation that sets performance-based, technology-neutral standards for systems that states, tribes, and local governments use to receive electronic reports from facilities they regulate under EPA-authorized programs and requires program modifications or revisions to incorporate electronic reporting.

Therefore, the submittal of self-monitoring forms electronically needs to be removed from the "DIP IU permit" until the City is CROMERR compliant. Please remove the email addresses in section Part 3.f of the permit. See below:

~~Or by email to mculpo@helenamt.gov and mfitzwater@helenamt.gov.~~

2-Under Section B, Part 11 General Prohibitive Standards of the IU permit, Did the City cross-check with the Municipal ordinance Section 6-4-5 to ensure that the requirements are equivalent? There also is a typo in this section. There are two bullets "a" under Section B, Part 11 General Prohibitive Standards of the IU permit.

Monitoring report form

1-The DIP monitoring report form has the standard statement of certification, but it should also contain the TTO certification. Therefore, the DIP "monitoring report form" should have the general statement of certification and the TTO certification. See below for the TTO certification that should be added to the "monitoring report form":

"Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation [or pretreatment standard] for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing of the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the control authority."

Signed: _____

Date and Time: _____

Printed Name: _____

Please let me know if you have any questions.

Thanks,

Emilio Llamozas

(303) 312-6407 phone

To report an environmental violation, please visit EPA's website at

<http://www.epa.gov/compliance/complaints/index.html>

From: Matthew Culpo <MCULPO@helenamt.gov>

Sent: Wednesday, August 5, 2020 11:07 AM

To: Llamozas, Emilio <Llamozas.Emilio@epa.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>

Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>

Subject: RE: EPA's comments on the DIP Industrial User Permit

Hi Emilio and Al,

Attached is the final version of the DIP Industrial User Permit and Monitoring Report Form. I have reviewed and accepted all of your comments on the permit. I changed the term of the permit to 5 years, and changed the reporting address to the Engineering Division and allowed for electronic submittal by email to Mark and myself. Do you have any more comments or concerns with this permit before we issue it on the 15th?

Thank you,

Matt Culpo, P.E.

Civil Engineer

City of Helena

316 North Park Avenue

City-County Building, Room 413

Ph: 406-447-8073

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mculpo@helenamt.gov

From: Llamozas, Emilio <Llamozas.Emilio@epa.gov>
Sent: Tuesday, August 4, 2020 3:48 PM
To: Phil Hauck <PHAUCK@helenamt.gov>; Matthew Culpo <MCULPO@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>
Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>
Subject: EPA's comments on the DIP Industrial User Permit

Hi Phil, Matt, Mark and Ryan,

I hope you are doing well. Attached are EPA's comments on the DIP Draft Industrial User Permit.

Please note that the EPA is not approving the DIP industrial user permit, but providing comments so the City can address the industrial user permit findings identified during the 2017 pretreatment audit.

Please note it is the City's responsibility to ensure that the DIP industrial user permit aligns with the City's pretreatment ordinance.

Please let me know if you have any questions on the DIP industrial user permit comments.

Thanks,

Emilio Llamozas
(303) 312-6407 phone
To report an environmental violation, please visit EPA's website at
<http://www.epa.gov/compliance/complaints/index.html>

From: Hanson, Robyn <Hanson.Robyn@epa.gov>
Sent: Friday, July 24, 2020 3:39 PM
To: Phil Hauck <PHAUCK@helenamt.gov>; Matthew Culpo <MCULPO@helenamt.gov>; Mark Fitzwater <mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>
Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Llamozas, Emilio <Llamozas.Emilio@epa.gov>; Garcia, Al <garcia.al@epa.gov>
Subject: City of Helena: Yesterday's LOV Conference with EPA and Resulting List of Deliverables

Phil, Ryan, Matt, and Mark:

Thank you once again for participating in a videoconference with the EPA yesterday regarding the City of Helena's pretreatment program. We look forward to the City's continued engagement as we pursue settlement discussions regarding a potential enforcement action under the Clean Water Act (CWA) for the violations that we alleged in our Letter of Violation, dated May 14, 2020.

As I noted yesterday after receiving your permission to proceed without the presence of the City's Attorney, our primary focus at this time is reaching agreement on a set of compliance terms to be drafted into a proposed administrative Agreement on Consent, or "AOC." See Section 309(a) of the CWA 33 U.S.C. § 1319(a). At a later point in our settlement discussions, we also intend to engage with the City of Helena regarding an appropriate administrative penalty as set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

For now, I am following up on my commitment to share with you the list of deliverables, in the table below, that we understand to have come out of yesterday's conference. Please let me know if you have anything to add to this list, or if you understood any commitments differently.

Deliverables	Corresponding LOV Violation # (from 7/8/20 EPA letter)	Due Date
City of Helena:		
1. Submit an updated ordinance.	#2	September 1, 2020; City expresses it may be able to submit earlier.
2. Propose an updated IGA (that addresses EPA's 7/8/20 comments) to Ft. Harrison for signature.	#3	No set date commitment. City and EPA agree the City will propose the updated draft IGA "soon" so EPA can be available to join discussions if Ft. Harrison does not agree to sign. If this is still outstanding when we draft the AOC, that document will propose a date for completion of the City's proposal of the IGA.
3. Reissue the modified DIP permit, addressing EPA's comments (to be provided by August 5, 2020).	#4	By August 15, 2020.
4. Provide a narrative explanation to EPA of the IU inventory and characterization procedures the City is implementing or planning to implement, for existing and new facilities, including a timeline for implementation and a description of how the City will update its IU inventory (of existing and new facilities) yearly.	#5 & #6	By August 1, 2020.
5. City will update its prior IU Inventory procedures governing notification of IUs (submitted to AI during 2017 Pretreatment Audit, which he sent back to the City on 7/23/20).	#7	September 1, 2020 (EPA agreed to extend from the original 8/15 date requested).
6. City to update the Sampling & Analysis Plan it provided to EPA (via AI Garcia) on 6/30/20 and resubmit to EPA for approval. The updates should ensure the plan provides for representative sampling, appropriate timing for the samples, calibration of pH meter with logs of the calibrations, and any other updates needed to address the Proposed Action in EPA's July 8, 2020 letter.	#8 & #9	August 5, 2020.
7. City to review its enforcement records on MRL's late report, including documented phone calls and provide those records to EPA if they exist. Alternatively, City will discuss with the City's Attorney taking enforcement response on the late report.	#9	No set date commitment. As soon as possible.
8. City to develop a procedure for receiving and analyzing self-monitoring reports from SIUs and following up with enforcement responses per the City's ERP.	#9	Agree to do within timelines proposed in July 8, 2020 letter (p. 14), if not earlier.
9. City to continue to strategize methods to recruit and budget a FTE designated to implement its PT Program. Phil and AI to	#10	No set date commitment. Phil will

discuss ideas about steps that could ensure qualified personnel implement the PT program.		contact Al to set a time to talk.
EPA:		
1. Review the City's recently proposed draft Local Limits, as submitted via email to Al Garcia on 6/30, to ensure they are approvable.	#1	No set date commitment. EPA acknowledges receipt of Helena's proposed Local Limits and has added the document to the queue of municipal proposals under review.
2. Provide edits and comments on the City's recently provided draft DIP permit, including EPA's request for removal of the administrative extension language and language requiring samples to be "representative."	#4	August 5, 2020 (City still plans to reissue by August 15 th)
3. Al to discuss ideas with Phil about steps that could ensure qualified personnel implement the PT program; EPA to consider sharing advice based on what other similarly sized municipalities do.	#10	No set date commitment. Phil will contact Al.

Finally, I am CC'ing Mr. Jodoin to this communication. Mr. Jodoin, please do not hesitate to contact me directly if you want to discuss the EPA's claims in this matter or our proposed path forward in these ongoing settlement discussions, including any of the deliverables arising from the conference yesterday.

Regards,
Robyn

Robyn Hanson Emeson
Senior Assistant Regional Counsel
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Office: (303) 312-6485 | Hanson.Robyn@epa.gov

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